

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES JOSEPH BRUNDAGE,
Petitioner,
v.
STATE OF WASHINGTON,
Respondent.

Case No. C10-5718 RJB/JRC

ORDER DENYING
PETITIONER'S MOTION NOT
TO CONSIDER THE ANSWER
AND GRANTING PETITIONER'S
MOTION FOR AN EXTENSION
OF TIME TO FILE A TRAVERSE

The underlying petition for a writ of habeas corpus has been referred to United States Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(A) and (B), and Local Magistrate Judges' Rule MJR3 and MJR4. Petitioner is seeking federal habeas relief, pursuant to 28 U.S.C. § 2254.

Before the court is petitioner's motion asking the court not to consider the answer because it was filed late (ECF No. 21). There is no default in habeas proceedings and the answer will be considered. Gordan v. Duran, 895 F.2d 610 (9th Cir. 1990). The motion is DENIED.

Also before the court is plaintiff's motion for an extension of time to file a traverse (ECF No. 22). Petitioner explains that the Monroe facility where he is currently housed is on

ORDER - 1

1 lockdown. The motion is GRANTED. Petitioner will have until April 8, 2011 to file a traverse.
2 The clerk of court is directed to re-note the habeas petition as ready for review on April 15, 2011.

3 Dated this 8th day of March, 2011.
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7 J. Richard Creatura
United States Magistrate Judge
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ORDER - 2